

**Chief Medical Officer's Report
to the Nebraska Medical Association
September 2006**

Medicaid Reform

A Medicaid reform plan was issued in December 2005 as required by LB 709, passed during the 2005 legislative session. The plan concluded that Nebraska's Medicaid Program, as it was currently structured, was not fiscally sustainable. An analysis of current and projected costs and changes in the state's population showed the program would continue to outpace the growth of state revenues, making substantial reform of the program necessary.

The plan contained both short-term solutions that would save the Medicaid program approximately \$72 million in total funds the first full year, and longer-term solutions. The full 2005 report is available at www.hhss.ne.gov.

The plan included 28 recommendations to reform Nebraska's Medicaid Program. One recommendation was to restructure provision of long-term care for the elderly and disabled to emphasize assisted living and other home and community-based services. Another addressed the issue of moving away from an entitlement program in order to meet long-term funding goals.

In the 2006 legislative session, Senator Jensen introduced LB 1248, which among other things, implemented various reforms contained in the Medicaid Reform Plan.

Changes made relating to limits on Medicaid-covered services include:

- The Department may establish premiums, co-payments, and deductibles; limits on the amount, duration, and scope of goods and services; and requirements for recipients of Medicaid as a necessary condition for the continued receipt of such assistance.
- In establishing, prioritizing and limiting coverage for services, the Department will consider the effect, public policy impact, experience and outcomes of other states, nature and scope of federally recognized benchmark health insurance coverage, and other relevant factors as determined by the department.
- Current coverage of these mandatory and optional services shall remain in effect until revised, amended, repealed or nullified pursuant to law.

LB 1248 establishes a 10-member Medicaid Reform Council, appointed by the chairperson of the HHS Committee, in consultation with the committee, Governor and director.

The bill contains several reporting requirements:

- The Department will prepare a biennial summary and analysis of the medical assistance program for legislative and public review.
- The HHS Committee will provide for an independent study and actuarial analysis of the impact of behavioral health insurance parity legislation in Nebraska. A report goes to the Governor, HHS Committee and the Banking, Commerce and Insurance Committee on or before December 1, 2006.
- The Department will develop recommendations relating to the provision of health care and related services for Medicaid-eligible children under CHIP. The council will hold a public meeting and provide comments on the draft report to the Department and HHS Committee. The Department will provide a final report to the Governor, HHS Committee and Council on December 1, 2007.
- The department will develop recommendations relating to the defined benefit structure of the Medicaid program. The department will provide a final report to the Governor, HHS Committee and Council on December 1, 2008.

Medicaid eligibility focuses on four categories of low-income persons: children and pregnant women, low-income caretaker relatives of the children, persons with disabilities, and the aged. The Nebraska program currently covers all federally-mandated income levels of these populations. It also provides optional Medically Needy coverage for low-income caretakers, the aged and persons with disabilities. It provides optional CHIP coverage for children to 185% of poverty. It also covers two other optional populations: a cervical and breast cancer program for women to 225% of poverty and a working disabled buy-in program for persons with disabilities to 250% of poverty. For Medicare-eligible persons for whom the state must pay the Medicare monthly premiums, it also includes eligibility for Medicaid services to 100% of poverty.

Medicaid Reform—Drug Program

The legislative study of Medicaid resulted in the Reform Plan which made the following recommendations for the Medicaid Drug Program:

Adopt a program similar to the Missouri Mental Health Medicaid Pharmacy Partnership Program to improve the use of drugs used to treat mental health conditions and to control the growth in Medicaid spending. The first initiative under this program is to identify clients who are receiving three or more atypical anti-psychotic drugs concurrently and to notify their prescribers, with the intent to make the prescriber aware of the patient's drug use and also to provide educational materials and resources. The program was announced statewide in July.

Implement prior authorization for those new, brand-name drugs, through the established Drug Utilization Review (DUR) Board process, where it is deemed appropriate. All new drugs are being reviewed for this purpose, prior to their coverage by Medicaid. Those drugs not appropriate for the prior authorization process are then immediately covered. Those appropriate for prior authorization have coverage criteria developed by the DUR Board and recommended to the Department. The Department then implements drug coverage using finalized prior authorization criteria.

HHSS is to contract with a consultant to a) review the existing prior authorization and mandatory generics programs within the Nebraska Medicaid Program and b) advise HHSS on whether the establishment of a preferred drug list (PDL) would be clinically appropriate and cost-effective for various drug classes and whether participation in a purchasing pool would result in additional savings. This is under development, through the issuance of a Request for Proposal, to find and contract with a qualified consultant.

One additional recommendation is that HHSS encourage eligible providers to participate in the Federal 340B drug-purchasing program to reduce the cost of prescription drugs for low-income persons, including Medicaid recipients. HHSS is working to identify entities that are eligible to purchase drugs under the 340B program in order to make these entities aware of the program and to assist those that elect to participate. It is estimated that there are 4 to 6 eligible entities that could take advantage of this program. Those already participating include the Federally Qualified Health Centers, certain clinics and others.

Generic Drug Program

The Nebraska Medicaid Program continues to appreciate prescribers' willingness to use generic drugs when therapeutically appropriate. During January 2006 generic drug usage rose to 60% of all prescriptions. The fiscal impact is notable, in that the average generic prescription costs less than \$20, while a brand name prescription costs nearly \$100. Each one percent shift to generic drugs results in reduced expenditures of over \$2 million.

Medicaid Fee Schedule

The Nebraska Fee Schedule has been updated and can be found at the Medicaid web site: www.hhs.state.ne.us/med/Practitioner_Fee_Schedule.htm. The new fee schedule incorporates updates in the procedure codes, modifier changes, unit values, dollar conversion factors, and Medicaid maximum allowable payments. The revised fee schedule reflects an overall 2 percent increase in the aggregate for practitioners and is effective for dates of service on or after July 1, 2006.

Of note, the annual review of the fee schedule found that the section on radiology services was significantly elevated. Compared to other state's Medicaid programs, Nebraska ranked at the top for the maximum amounts allowed for radiology codes. Since the radiology rates were disproportionately high compared to other parts of the Medicaid program, an initial adjustment was made by lowering the conversion factor for radiology codes. Savings in payments for radiology services allowed an increase in payments for primary care services, resulting in a total increase in the aggregate of 8 percent for primary care codes. Further

adjustments to the conversion factors will be evaluated annually to facilitate more equitable payments in all areas of the Medicaid program.

Medicare Part D

Beginning January 1, 2006, all 31,000 individuals who were eligible for Medicare and Medicaid were required by the Medicare Modernization Act (MMA) of 2003 to receive most of their coverage of prescribed drugs through a Medicare Part D Drug Plan. These dual eligible persons were auto-enrolled by the Centers for Medicare and Medicaid Services (CMS) into one of 14 CMS-approved Plans. This was a major change in benefit structure, as each plan operated its own formulary of covered drugs. In addition, billing each plan required a billing change at the pharmacy in order to submit the claim for the medications.

January and February were especially difficult months for clients to access services due to the billing and other data problems. While CMS published many directives to the plans concerning less restrictive coverage of drugs, a number of clients did not receive their drugs before they left the pharmacy. Many others received their medications simply because their pharmacist knew that they needed the medication and did not have the funds to pay. Others returned to the doctor's offices seeking help with samples or needing new prescriptions for drugs covered by the plans. The payment issues associated with these early months are still unresolved in some cases.

Nebraska Medicaid continues to provide "wrap-around" coverage for certain classes of drugs, such as the benzodiazepines, barbiturates, cough and cold, some vitamins and prescribed over-the-counter medications which are drugs not coverable by the plans. These drugs are coverable for all Medicaid-eligible persons.

The shift in coverage for the last 6 months of fiscal year 2006 resulted in a decrease in expenditures from fiscal year 2005 of \$241 million to \$202 million.

The MMA also established the precedent of states' contributing to a federal program, through the MMA Phasedown, popularly known as the "clawback." All states must pay the Social Security Trust Fund an estimated dollar amount calculated to be similar to what the state would have spent prior to the change. For calendar year 2006, the clawback is set at 90%, which results in payment of about \$3 million per month into the trust fund by Nebraska. The clawback percent will decrease 1.5% every year for 10 years until it plateaus at 75%. We believe that overall Nebraska will not save money due to Part D this year.

Immunosuppressant Repository Program

This year the Legislature passed a bill that provides for the establishment of the Immunosuppressant Drug Repository Program. Any person or entity can donate immunosuppressant drugs to a participant in the program or return previously prescribed drugs to the transplant center where they were originally prescribed. Participants may only be transplant centers that have elected to voluntarily participate in the program. A drug must be in its original, unopened, sealed and tamper-evident packaging. Single dose units

may be dispensed if the outside packaging is opened but the single-dose-unit packaging is unopened. Drugs may be distributed to another participant for dispensing. The Department of Regulation and Licensure, with the recommendations of the Board of Pharmacy, is in the process of adopting rules and regulations to carry out the Repository Program.

Cancer Drug Repository Program

Statutory changes went into effect last year that require the Department of Regulation and Licensure's Cancer Drug Repository Program to maintain a list of persons or entities that are willing to accept donated cancer drugs. The program was established in 2003 to allow cancer drugs to be donated and dispensed to Nebraska residents.

Any person or entity can donate cancer drugs to the program through a physician's office, pharmacy, hospital or health clinic. Licensed physicians and pharmacists may dispense these drugs in their original, unopened, sealed and tamper-evident packaging to an ultimate user of the drug or distribute them to another participating physician's office, pharmacy, hospital or health clinic for dispensing.

The registry with the Cancer Drug Repository Program currently includes 76 participants, 24 of whom are physicians.

Data on Physicians

Between 1990 and 2005, the number of physicians practicing in Nebraska increased 10.6%.

As of 2005, there were 3,202 physicians actively practicing in the state. That translates into 1.8 per 1,000 population. Of that number, 1,254 are primary care, or 0.7 per 1,000.

Between 1999 and 2005, metro counties experienced an increase in practicing physicians of 10 percent. Non-metro counties had an increase of 7%.

Primary care physicians increased by 0.4% between 1999 and 2005, reflecting 1.7% decrease in metro areas and 3.7 increase in non-metro areas. The number of physicians practicing in specialty fields outside of primary care increased by 15.4%.

In 2005, over half of Nebraska's counties (49 of 93) were federally designated, either in full or in part, as primary Health Professional Shortage Areas (HPSA). This designation includes urban and rural geographic areas and qualifying facilities or special populations where a shortage of primary health care professionals exists. Special populations in Nebraska include the low-income populations in Box Butte County and Douglas County and the Omaha Indian population in Thurston County. Based on 2000 Census data, approximately 8% of the state's population lives within a primary care HPSA. (*Source: Nebraska Health Information Project 2005 Data Book*)

Physician License Renewals

All physician licenses will expire October 1. Renewal notices have been mailed. It is recommended that licensees confirm the renewal of their license after the expiration date, prior to practicing. Receipt of a renewed license card will confirm renewal or it can be confirmed by checking the Credentialing Division Web site at www.hhss.ne.gov/reg/regindex.htm Online renewal is encouraged.

In addition to the mandatory reporting requirements in place, licensees are asked at the time of license renewal about any disciplinary action taken against their licenses in any state and about misdemeanor or felony convictions that may have occurred since the last renewal. If any discipline or convictions have occurred, the licensee is required to submit documentation before the renewal can be processed.

Please personally fill out the application. Staff may be unaware of convictions or disciplinary actions. The result is an application that could cause problems for the licensee because submitting a fraudulent application is considered grounds to discipline the licensee.

The Credentialing Division has been notified by other state medical boards that companies are soliciting physicians to renew their licenses online. One such company offers to complete all licensure forms for renewal in all 50 states. Unsuspecting physicians are paying fees to these companies, only to find that their licenses have not been renewed properly with the state regulatory authority. The Federation of State Medical Boards is not connected with any of these online companies and does not endorse any of their services. If you are contacted by a company like this, please let the Credentialing Division know.

Smokefree Ordinances and Quitline

In June 2004 the Lincoln City Council passed a comprehensive clean indoor air ordinance for all work sites, including restaurants and bars. A referendum to overturn the ordinance failed and enforcement of the Lincoln Smoking Regulation Act began on January 1, 2005. In a survey conducted in June 2005, 71 percent of Lincolniters said they support the law and 85 percent said they visit bars the same or more often since the Act took effect; 88 percent said they visit restaurants the same or more often. Smokers in the survey said they reported smoking fewer cigarettes since the smoke-free law took effect and 23 percent said they were influenced by the law to think seriously about quitting smoking.

In June of this year, the Omaha City Council passed a clean indoor air ordinance which is scheduled to take effect in October. There are some exemptions, such as certain keno locations and tobacco retail outlets. A lawsuit challenging the constitutionality of the law is pending.

With the implementation of smoke-free policies, additional tobacco users may attempt to quit smoking. Nebraska is part of the National Network of Quitlines and Nebraskans can call and receive cessation assistance at 1-800-QUIT-NOW.

New Deputy Chief Medical Officer

Dr. Daniel Noble took the position of HHSS Deputy Chief Medical Officer in January. He is now involved with the state's pandemic flu planning, bioterrorism preparedness, and the Child Death Review Team, along with other projects. The deputy position is part time and Dr. Noble will maintain clinical practice at the Lincoln Orthopaedic Center.

Bioterrorism Funding

Nebraska has received \$9,906,287 from the federal Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) for bioterrorism and emergency preparedness.

The funding will allow the continuance of efforts to make Nebraska prepared for a potential act of bioterrorism or any kind of public health emergency. The money will be used to enhance public health infrastructure and continue collaborations between state agencies, public health, law enforcement, first responders, hospitals, local emergency management and local government authorities.

Funding will be used for communications, laboratory testing, education, surveillance, planning, exercising and other purposes as it has in previous years, with special emphasis on community collaboration, response and planning.

Parkinson's Disease Registry

As of February 1, all physicians and pharmacies licensed in Nebraska are once again required to report to the Nebraska Parkinson's Disease Registry. The registry had been terminated in October 2004 due to lack of funding.

Physicians and pharmacies are asked to report any cases that may have been missed while the registry was inactive to ensure a complete and accurate database.

The registry was created by the Nebraska Legislature in 1996, establishing the nation's first and only Parkinson's Disease registry. The legislation made the disease reportable to HHSS and authorized physicians and pharmacies to release patient-specific information to the registry.

Physicians must report all cases that have a diagnosis of Parkinson's. If certain drugs used to treat Parkinson's are dispensed, pharmacists must report this dispensing to HHSS.

Registry data will help gauge the incidence of the disease in the population and provide researchers with useful information.

Colorectal Cancer Screening Grant

The Every Woman Matters Program and the Comprehensive Cancer Control Program have been awarded \$1.8 million for a three-year colorectal cancer screening demonstration program, one of five grantees selected nationwide.

This program will provide the resources to enroll 10,000 Nebraska residents for colorectal cancer screening using FOBT kits. Nebraska's colorectal cancer incidence and mortality rates are higher than the nation's, and the state's screening rates for colonoscopy or sigmoidoscopy are among the lowest of all states. This project can help significantly increase the screening rate for this disease.

The funds will be used to focus on a priority population of men and women 50 years of age and older whose household incomes qualify them for enrollment in the demonstration project. Public education will be spearheaded by the HHS Every Woman Matters program and assisted by the American Cancer Society, the state's Comprehensive Cancer Control Program, known as Nebraska C.A.R.E.S. (Cancer Awareness, Research, Education and Service), and approximately 25 other organizations.

An innovative feature of Nebraska's program will be an interactive Web site for persons to record their screening and talk about the screening experience. Medical Advisory Committee members will be consulted for responses to registrants who describe negative screening experiences or to correct or clarify unclear or false information. Colorectal cancer survivors will be recruited to provide their stories. The desired outcome of the Web site and promotion would be increasing screening across the state for all Nebraskans over 50.

Colorectal cancer claims the lives of 400 Nebraska residents annually. It is the second leading cause of cancer death. Nearly 1,000 new colorectal cancer cases are diagnosed in the state each year.

Mumps Outbreak

Cases of mumps slowed to barely a trickle by the end of July, with one to two new cases over the last couple of months. The total tally of mumps cases in Nebraska as of early August is 361 confirmed, probable, and suspected cases in 47 counties.

The first reports of mumps-like illness came from Iowa. Iowa's Department of Public Health received its first report in December and the outbreak turned into an epidemic. Nebraska had its first case in March. The initial investigation showed that people coming down with mumps in Nebraska had connections to Iowa. Cases of mumps in Nebraska reached the 100 milestone in April and continued to climb for the next several months. The highest number of cases was in people ages 18-59; however cases were seen in children as young as two and adults up to age 64.

By May, nine other states were reporting mumps cases. The Centers for Disease Control and Prevention (CDC) called this the largest epidemic of mumps in the United States since 1988.

During the outbreak, state health officials recommended two specific groups check their vaccination status:

1. People in schools, colleges and universities, including students, teachers and staff should have two doses of mumps vaccine (MMR).
2. Health care workers should also have two doses of MMR or proof of immunity to mumps.

Several people who got the mumps had been vaccinated. Both Nebraska's and Iowa's state epidemiologists say their investigations into the disease didn't show vaccine failure. Research shows MMR is 95% effective.

Nebraska Health and Human Services System and the Iowa Department of Public Health partnered and put together an informational document, "Iowa Mumps Epidemic, Nebraska Mumps Outbreak, Your State Could be Next." The document was shared with the 10-state Mid-America Alliance at the beginning of Nebraska's outbreak so other states would know what to expect.

Pandemic Flu

Nebraska's pandemic planning continues. The federal government allotted Nebraska a certain amount of antivirals for use in a pandemic situation. The state and local health departments also had an opportunity to purchase additional antivirals also offered by the federal government. Both HHSS and several local health departments decided to purchase some additional antiviral courses beyond the government allotment.

HHSS continues to reach out to people, other state agencies, health care providers, schools and businesses. HHSS officials met with the Department of Agriculture, the Nebraska Game and Parks Commission and the Nebraska Department of Education to discuss pandemic flu preparations. HHSS also partnered with the NMA and contributed several articles to the "Nebraska Medicine" magazine's spring issue, which focused solely on pandemic flu. HHSS is gearing up for a large-scale pandemic preparedness effort at this year's state fair and has also been working with local health departments and provided them with several communications tools including pandemic flu brochures and bird flu news release templates.

U.S. Secretary of Health and Human Services, Michael Leavitt came to Nebraska for a flu summit in February as part of a national pandemic response planning tour. Leavitt said that if pandemic flu strikes, it's local communities that will be the first line of defense against the disease. He used the in-state summits to draw attention to the topic of pandemic flu and engage the public, government, health, business, education and community leaders in the planning process. More than 600 Nebraskans attended the summit in person. Thousands watched the live broadcast on television, satellite or via video conference and 15 different media outlets attended the summit in person to cover

the story. The Association of State and Territorial Health Officials (ASTHO) recently recognized Nebraska for innovative ideas and the intense communication strategy used while planning and conducting the summit.

Investigations

The number of complaints received on all professional and occupational licensees have increased 60 percent over the last three years. In Fiscal Year 2006 (July 1, 2005 through June 31, 2006) there were 2,041 complaints received.

The number of complaints opened for investigation over the last three years has increased 80 percent, to 948 in FY2006. During that time period, 967 investigations were completed. There are 614 complaints currently being investigated.

There has been a 70 percent increase in the number of complaints related to physicians over the last three years. Twenty-five percent of all complaints received in FY2006 related to medicine (513). Eighteen percent (168) of those complaints were opened for investigation and 148 investigations were completed.

Over half of the complaints received are from consumers while slightly less than half are because of mandatory reporting.

Forty-nine percent of all complaints in medicine and surgery in FY2006 were complaints received as the result of mandatory reporting, from these sources: insurance companies (117), self-reports (45), other physicians (34), other professionals (24), faculty (16), peer review (3), and professional associations (2). The remainder of the complaints were almost exclusively consumer-generated, with some complaints generated by law enforcement, action in another state and from other sources.

There is a new consumer-friendly feature on the HHSS Web site that allows complainants to access a complaint form online, fill it out and download it for signing and mailing. The Web site address is www.hhss.ne.gov/reg/INVEST-P.HTM